IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 5408 OF 2001

Shri Jayasing Dhondiram Rajput)
aged adult (pensioner retired)
as Assistant Conservator of)
Forests), residing at House)
No.1029, Gavandi Galli, Tasgaon,)
District - Sangli.).... Petitioner.

Versus

1) State of the Maharashtra)
through its Secretary,)
Social Welfare Department,)
Mantralaya, Mumbai - 32.)
2) Additional Commissioner)
(Revenue) Caste Certificate)
Scrutiny Committee, Pune,)
171A Ganesh Peth, Sugandha)
Chambers, Pangul Ali,)
Pune - 411 002.)
3) Secretary,)
Revenue and Forests)
Department, Government of)
Maharashtra, Mantralaya,)

Mumbai - 32.).... Respondents.

Mr. R. K.Mendadkar with Mrs. H.K.Mandlik
for the Petitioner.

Mr. C. R. Sonawane, AGP for Respondents.

CORAM : V.G. PALSHIKAR, and

V.R.KINGAONKAR, JJ.

DATED : 4TH APRIL, 2006.

JUDGMENT (Per : V.R.KINGAONKAR, J.):

This petition is filed by a retired Assistant Conservator of Forests against findings recorded by the Caste Verification Committee, Pune. The Committee invalidated his claim as being member of "Rajput Bhamta" caste and held that he is a Hindu Rajput by caste.

2. It is not necessary to elaborately set out the facts leading to controversy about the caste claim made by the Petitioner. Suffice it to say that the Petitioner initially relied upon a caste certificate dated 26th June, 1953 claiming that he belonged to Hindu Patharwat community. The certificate was cancelled by order dated 19th July, 1982 by the then Tahsildar, Tasgaon. The Forest Department had initiated a Departmental Enquiry on charge that the

Petitioner had submitted a false caste certificate. The enquiry was, however, dropped. The Petitioner sought benefits of deemed promotion and consequential monetary benefits along with pensionary benefits. He had, therefore, filed a Civil Suit No. 251 of 1989 in the Court of the Civil Judge (Senior Division), Sangli. He also filed Transfer Application No. 1758 of 1991 before the Maharashtra Administrative Tribunal. Since the Caste Certificate of the Petitioner was not verified, the Tribunal allowed withdrawal of the suit with liberty to the Petitioner to move the Government for determination of caste claim by making reference to the appropriate authority for verification thereof. The Petitioner submitted an application dated 19th November, 1996 claiming verification of his caste claim as "Rajput Bhamta". The application was referred to the Caste Verification Committee, Pune. The Committee conducted necessary inquiries into the matter, interviewed the Petitioner and also collected certain documents. The Committee found that the caste claim of the Petitioner is incorrect and he does not belong to sub-caste known as "Rajput Bhamta" and as such he is not member of VJNT.

3. The Petitioner impugnes findings of the Committee on various grounds. On his behalf, learned Counsel

Shri R. K. Mendadkar, canvased before us that the Committee failed to appreciate documentary evidence placed before it. He contended that the impugned order is vitiated due to non-furnishing of enquiry report of the vigilance cell. He further contended that the Committee did not apply its mind to the facts of the caste claim presented by the Petitioner and reached erroneous findings. The learned Counsel submitted that the caste claim of the Petitioner should not have been rejected by the Committee and urged to allow the Petition. On the other hand, learned Assistant Government Pleader for the Respondents supported the impugned order.

4. We have gone through the impugned order and the copies of documents filed by the Petitioner. Crucial question is as to what exactly was the caste claim made by the Petitioner and whether the impugned order is legal, proper and correct.

5. The basis for determination of the Petitioner’s caste is his representation dated 19th November, 1996 (Exhibit "B"). He made such representation in accordance with the directions of the Maharashtra Administrative Tribunal in Transfer Application No. 1758 of 1991. On perusal of the representation, it is

explicit that the Petitioner requested the Government to refer his case to the Committee for verification. His specific plea under the representation is to the effect that the Committee may be requested to declare: "Whether or not I fall under Rajput Bhamta as per the Scheduled Tribe and Scheduled Caste (Amendment) Order 1976". This aspect has certain bearing as we will pin-point in the course of further discussion.

6. The Petitioner produced following documents before the Caste Scrutiny Committee:

(1) The information submitted by father as regards the loan of Shri V. D. Limaye mentioned on page 107(4) of the judgment dt. 12/12/38 in B.A.D.R.CC. No. 5822, 5823, document No. 509, 3781 and 6907 wherein the caste of applicant's father is mentioned as Maratha, occupation - agriculture and 'patharwat' (i.e. stone-splitter).

(2) Land Revenue Mutation Entry No. 19541, (Father's name is mentioned with surname 'Gavandi').

(3) Death Certificate of his father - (caste is not mentioned).

(4) Death Certificate of his mother - (caste is not mentioned).

(5) Birth Certificate of his brother Shri Vishnu Dhondiram Patharat - (caste is not mentioned, surname is ‘Patharat’).

(7) School leaving certificate of his son Satish Rajput - (caste is not mentioned).

(8) Caste certificate of his son Satish - (It shows caste as ‘Patharwat’).

(9) School leaving certificate of his son Sanjay. (Caste is mentioned as Maratha (Patharwat).)

(10) School leaving certificate dt. 16/6/83 of his son Sanjaykumar, (caste is not mentioned).

(11) Clarification of Head Master about not having made entry as regards said caste in the school record for the year 76-77.

(12) School leaving certificate of his daughter Kumari Sujata Rajput - (caste Rajput Bhamta).

(13) Caste certificate of his daughter, Kumari Sujata - (caste Rajput Bhamta).

(14) His own Primary School leaving certificate - (caste Rajput).

7. The Petitioner had also filed some other documents including a Kabulayat dated 18th July, 1895 which disclosed that his grandfather by name Savla Vitha Naru had signed the document about receipt of Rs.1800/- for construction of a Vithoba temple - as ‘Patharwat’. He also filed certain documents showing that his father-in-law had obtained Sale Deed in 1936 wherein the caste is shown as ‘Patharwat’. On behalf of the Petitioner, learned Counsel contended that these documents indicated the petitioner’s being of "Patharwat" caste but they are not properly appreciated. We do not find any substance in this contention. As pointed out earlier, the Petitioner submitted application (Exhibit "B") for verification of his caste claim as "Rajput Bhamta". Obviously, those private documents which indicated caste of his father-in-law and grand-father as ‘patharwat’ have no bearing on the issue. There was no necessity for the Committee to discuss these documents which are

irrelevant in view of specific caste claim made by the Petitioner.

8. It appears that the Petitioner had previously filed caste certificate claiming himself to be "Hindu Patharwat" but later on that certificate was cancelled. He never relied on that certificate and did not seek verification of such caste claim. It is pertinent to note that on 28th August, 2000 the Petitioner was interviewed by the Committee. The Petitioner failed to furnish information regarding the traits, custom and usage of "Rajput Bhamta" caste / community. The Committee had rightly observed that "Rajput Bhamta" is erstwhile criminal tribe and, therefore, it is imperative that some entries at the police station about family members of the Petitioner could have been recorded in the history sheet. Nobody from the forefathers of the Petitioner is recorded as a criminal or history sheeter at any police station. The Petitioner utterly failed to prove his caste claim during enquiry before the Committee. His daughter’s school leaving certificate is the only document which purports to show that entry of the caste is made as "Rajput Bhamta". However his unmarried daughter by name Sujata was admitted in the School by the Petitioner himself and probably after raising the

disputed issue regarding the caste claim and as such the single entry in the school leaving certificate of his daughter is of no avail to prove his claim.

9. In case of **Madhuri Patil v/s Additional Commissioner, Tribal Development,** (1994) 6 SCC 241, the Apex Court has observed :

> "The Committee which is empowered to evaluate the evidence placed before it when records a finding of fact, it ought to prevail unless found vitiated by judicial review of any High Court subject to limitations of interference with findings of fact. The Committee when considers all the material facts and records a finding, though another view, as a court of appeal may be possible, it is not a ground to reverse the findings. The Court has to see whether the Committee considered all the relevant material placed before it or has not applied its mind to relevant facts which have led the Committee ultimately to record the finding. Each case must be considered in the backdrop of its own facts."

10. The burden of proof is on the Petitioner and it was for him to adduce reliable evidence in support of

the caste claim. We have noticed that the Petitioner has changed his stand from time to time. Initially he filed caste certificate dated 1st October, 1980 issued by Tahsildar, Tasgaon, to the effect that he is member of "Patharwat" caste. The certificate was sent for verification to the Collector, Sangli, which was found to be incorrect and invalid and as such it was later on cancelled. He subsequently claimed to be member of "Rajput Bhamta" caste. Some of the documents filed by him would go to show that his relatives have claimed to be members of "Maratha" (Maratha caste). The caste claim set up by the petitioner is not consistent and his application also depicts his different stands regarding the claim. In case of "**Lilly Kutty vs. Scrutiny Committee, S.C. and S.T. and others",** AIR 2005 SC 4313, the Supreme Court observed:

> "In view of the said finding, it is immaterial that she had obtained a certificate showing her caste to be Hindu Pulayan - Scheduled Caste. If her case was that she was re-converted in Hinduism, it was for her to put forward such claim and to prove it in accordance with law. In our opinion, Section 10 is clear and expressly enacts that when a person claims to be a member of Scheduled Caste or Scheduled Tribe, burden of

proof that he or she belongs to such caste or tribe is on him/her."

From the above observation it is amply clear that burden of proof lies on the person who claims benefit of being member of a particular caste. In the present case, the Petitioner utterly failed to discharge the burden and prove that he belongs to "Rajput Bhamta" caste. The findings of the Committee are, therefore, legal, proper and correct.

11. Under the circumstances, we are of the view that the Petitioner failed to prove his caste claim. There is no merit in the contention that the Committee did not appreciate probetive value of the documents placed before it. The impugned order does not suffer from any infirmity and deserves to be maintained.

12. In the result, the petition is destitute of substance and as such is dismissed. Rule discharged. No order as to costs.

Sd/-

(V.G.PALSHIKAR, J.)

Sd/-

(V.R.KINGAONKAR,J.)